


# Exhibit 17

## Diabetes patients sue insulin makers for 'pricing fraud'

 [web.archive.org/web/20170131003807/https://www.washingtonpost.com/news/wnk/wp/2017/01/30/diabetes-patients-sue-insulin-makers-for-pricing-fraud](https://web.archive.org/web/20170131003807/https://www.washingtonpost.com/news/wnk/wp/2017/01/30/diabetes-patients-sue-insulin-makers-for-pricing-fraud)

Laura Marston holds up a vial of Humalog, a type of insulin she takes for type 1 diabetes at her home in Washington, D.C. When she was first diagnosed at 14, the list price for the drug was \$21 per vial. Now its list price is more than \$250 for a vial.

(Jorge Ribas, The Washington Post)

A group of diabetes patients filed a lawsuit Monday against three drug companies for systematically increasing the list prices of insulin for years, in an alleged fraudulent pricing scheme that saddled patients with "crushing out-of-pocket expenses," according to the filing.

The insulin market is dominated by an oligopoly of companies that sell many billions of dollars worth of insulin each year -- and have steadily raised the list prices of their drugs. A version of insulin, called Humalog, launched two decades ago with a sticker price of \$21 a vial and has increased to \$255 a vial.

Meanwhile, competition has appeared to work in a perverse way, with list prices of competing insulins often rising in concert. Last year Sen. Bernie Sanders (I-Vt.) and Rep. Elijah E. Cummings (D-Md.) asked for a federal investigation into "possible collusion" on insulin prices.

### [Why treating diabetes keeps getting more expensive]

The lawsuit, filed by 11 patients in U.S. District Court in Massachusetts, focuses on a common practice in the pharmaceutical industry: Drug companies compete for insurers' business by offering secret rebates on their drugs. Companies that negotiate drug prices for insurers, called pharmacy benefit managers, can place drugs on tiers that determine how much consumers pay for them -- decisions that may be influenced by the size of the discount granted by the drug companies.

The lawsuit claims that drug companies have been increasing the list price of insulin in order to grow their discounts without lowering the overall price tag. The people stuck paying the balance: patients, particularly those without insurance or with high-deductible plans. The lawsuit alleges those actions violate the Racketeer Influenced and Corrupt Organizations Act and state consumer protection laws.

"I think that publishing a price that you know is artificially-inflated and is not a real price -- other than to one group of people -- is a fraud," said Steve Berman, an attorney for Hagens Berman who represents the plaintiffs.

The suit describes a patient who may need to have her foot amputated because she cannot afford her insulin. Others, it says, have intentionally allowed themselves to develop a potentially life-threatening syndrome so that they can be admitted to a hospital and obtain free insulin samples.

"This scheme directly and foreseeably causes consumers to overpay for these life-saving medications," the lawsuit states.

Insulin companies acknowledge that list prices have risen, but argue that net prices -- the amount drug companies pay after rebates -- haven't budged.

Eli Lilly "conducts business in a manner that ensures compliance with all applicable laws, and we adhere to the highest ethical standards," spokesman Greg Kueterman said in an e-mail, declining to comment further.

A spokeswoman for Sanofi said that the company believes the allegations have no merit and will defend against them.

"We are aware of the complaint and its characterization of the pharmaceutical supply chain. We disagree with the allegations made against the company, and are prepared to vigorously defend the company in this matter," Novo Nordisk spokesman Ken Inchausti said in an email.

The Pharmaceutical Care Management Association, a trade group that represents pharmacy benefit managers, said it is reviewing the suit and pointed out that its companies are not defendants. But in a statement, the association said the lawsuit "inexplicably attacks prescription drug rebates, long used to reduce costs in public programs like Medicaid and in the commercial market."

Rising drug list prices have become a major issue for the biopharmaceutical industry, as various pricing controversies triggered by list price hikes have flared into Congressional hearings and scrutiny over the past year and a half. Although drugmakers grant discounts off the list prices to pharmacy benefit companies, those may not always be passed through directly to consumers.

For example, people with high-deductible plans or coinsurance that require them to pay a percentage of the drug cost can be directly affected by rising list prices. As more consumers are using health insurance that includes high deductibles, more patients are being exposed to the list price of a drug. In addition, diabetes is a drug people take for a lifetime, so any gaps in health insurance or issues such as losing or breaking a vial of insulin could expose them to the list price of their medicine.

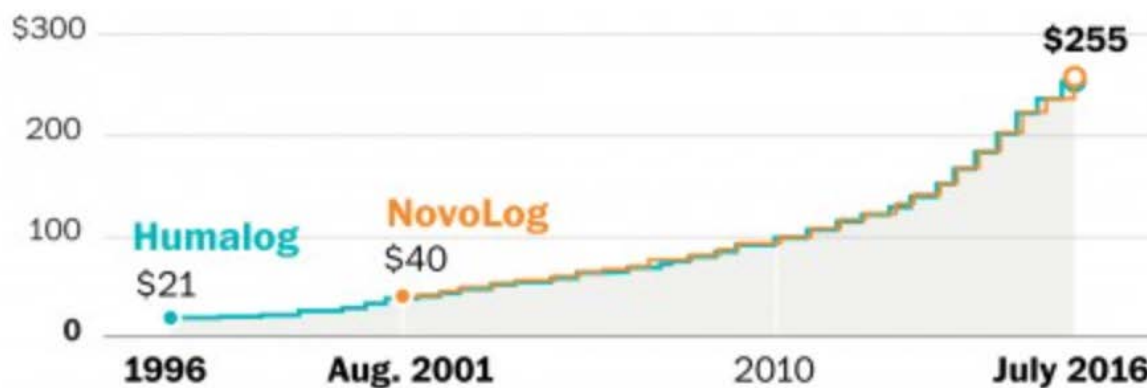
The lawsuit describes how pharmacy benefit managers that negotiate on drug prices for insurers play a role in the alleged scheme by telling the public the rebates were saving patients and insurers money, even when it knew rebates weren't lowering the real price of the insulin.

Brian Henry, a spokesman for Express Scripts, one of the largest pharmacy benefit managers, declined to comment on the suit, but in an e-mail said, "Rebates don't raise drug prices, drug makers raise drug prices."

Erin Britt, a spokeswoman for CVS Health said that the company passes more than 90 percent of its rebates back to customers.

## Insulin prices rising in lock-step

Humalog and NovoLog, both rapid-acting analog insulins, have increased their prices by nearly identical amounts at nearly identical times. Prices for Humalog have increased nearly 700% since 1996 when adjusted for inflation.



Notes: List price is in unadjusted dollars and does not reflect rebates or discounts

Source: Truven Health Analytics

THE WASHINGTON POST